

CHAPTER VII

EMPLOYMENT

Section 13. Marital Status

C. The Law: Sources of the Legal Standards for Marital Status Cases

1. Statute and Regulations

FEHA (Government Code) Sections 12940(a) and (a)(3).

Commission Regulations Sections 7292.0 through 7292.6.

2. Precedential Decisions

DFEH v. Boy Scouts of America dba Boy Scouts of America San Diego County Council (Henderson) FEHC Dec. No. 81-15. Marital status (unmarried cohabitation) - failure to hire as associate district director. "Unmarried cohabitation" covered by marital status provision of Fair Employment and Housing Act. Respondent failed to substantiate BFOQ requiring lifestyle that excludes unmarried cohabitation.

DFEH v. Simi Valley (Goehring) FEHC Dec. No. 83-21, reversed and reissued as nonprecedential FEHC Dec. No. 88-06. Marital status (married) - refusal to hire (mechanic). 1988 decision accepted Respondent's "potential conflict of interest" affirmative defense; concern about complainant's wife handling personnel records in department in which complainant applied.

DFEH v. Community Hospital of San Gabriel (Quan) FEHC Dec. No. 86-08. Marital status (married) and ancestry (Asian) - work environment ancestry harassment and termination due to relative policy that prohibited supervision by an in-law. Jurisdiction - employer regulations involving in-law supervision fall outside FEHA's prohibition of marital status discrimination. FEHA's marital status provisions cover one's "state of marriage" in general and one's marriage to a particular person.

DFEH v. Insurance America Sales Agency (Plunkett) FEHC Dec. No. 88-07. Marital status (married) - refusal to hire (insurance sales representative). Legal standard for establishing same department "potential conflict of interest" affirmative defense.